REMARKS

Claim 1 has been amended to recite that: "the overcoat layer does not contain a coloring agent and is formed by using a coating solution prepared by dissolving a film-forming polymer in water or an aqueous solvent." Support for this amendment can be found in the Specification and Claims as filed, for example Claims 8-10 and the Examples. Claims 8-10 have been cancelled. The changes made to the Specification and Claims by the current amendment, including ~~deletions~~ and additions, are shown herein with deletions designated with a strikethrough and additions underlined. No new matter has been added herewith. As a result of the amendment, Claims 1, 2, and 4-7 are presented for further examination.

Rejection under 35 U.S.C.§102(b)

Claims 1, 2, 4-7 and 10 were rejected as anticipated by JP 11-140360 ('360). Specifically, the Examiner believed that '360 teaches an ozone detector with a substrate containing a color change layer and a non-color change layer, wherein at least part of the color-change layer is exposed to ozone during use.

However, the Claims have been amended to recite that: "the overcoat layer does not contain a coloring agent and is formed by using a coating solution prepared by dissolving a film-forming polymer in water or an aqueous solvent."

> To be anticipatory under 35 U.S.C. § 102, a reference must teach each and every element of the claimed invention. *See Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). "Invalidity for anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference. ...There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." *See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991).

As stated above, JP '360 does not teach all of the claimed elements because JP '360 does not teach using a film-forming polymer or that the coating solution is prepared by dissolving a film-forming polymer in water or an aqueous solvent. The non-color change layer (overcoat layer) of JP '360 does not contain a polymer. Thus, Applicants respectfully request withdrawal of the Rejection under 35 U.S.C.§102(b).

Rejection under 35 U.S.C.§102(e)

Claims 1, 2, 4-7 and 10 were rejected as anticipated by Omatsu (USPN 6,117,685) ('685). The Examiner believed that Omatsu '685 disclosed an ozone detector as disclosed in Omatsu was not different from that taught in the claims. However, the claims have been amended to recite that: "the overcoat layer does not contain a coloring agent and is formed by using a coating solution prepared by dissolving a film-forming polymer in water or an aqueous solvent." Omatsu '685 teaches that the coating is a transparent resin sheet (2). The transparent resin sheet is not formed by dissolving the film-forming polymer in water or an aqueous solvent. Therefore, Omatsu '685 does not teach all of the claimed elements and Applicants respectfully request withdrawal of the Rejection under 35 U.S.C.§102(e).

Rejection under 35 U.S.C.§102(b) or in the alternative 103(a)

Claims 1, 2, 4-10 were rejected as anticipated by or in the alternative as obvious over JP 11-140360 ('360). Specifically, the Examiner believed that '360 teaches an ozone detector with a substrate containing a color change layer and a non-color change layer, wherein at least part of the color-change layer is exposed to ozone during use.

However, the claims have been amended to recite that: "the overcoat layer does not contain a coloring agent and is formed by using a coating solution prepared by dissolving a film-forming polymer in water or an aqueous solvent."

As mentioned in the rejection under 35 U.S.C.§102(b), JP '360 does not teach the use of a film-forming polymer for the coating solution or that the overcoat layer is formed by using a coating solution prepared by dissolving the film-forming polymer in water.

> The law is clear that three basic criteria must be met to establish a *prima facie* case of obviousness: (MPEP ¶2143):
> First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references, when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, no in applicant's disclosure (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1440 (Fed. Cir. 1991)).

JP '360 does not teach all of the claim limitations as discussed in the anticipation rejection. In addition, it would not have been obvious to make the overcoat layer as claimed: "formed by using a coating solution prepared by dissolving a film-forming polymer in water or an aqueous solvent," because of the unexpected advantages.

The unexpected advantages of using a film-forming polymer produced by dissolving the film-forming polymer in water or an aqueous solvent is shown in the Examples page 27, second and third paragraphs. In these experiments, the ozone indicator as claimed exhibited accurate determination of ozone even at comparatively high ozone concentrations. Further there was no variation in the degree of color change with humidity or temperature. As stated in the Specification page 2, paragraph 2, with reference to previous detection methods: "However, these detection methods are invariably intended to detect comparatively low concentrations of ozone and not suitable for detecting high concentrations of ozone."

Conclusion

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Mar. 16, 2005

By: Jennifer Haynes

Jennifer A. Haynes, Ph.D.
Registration No. 48,868
Agent of Record
Customer No. 20,995
(415) 954-4114

1304189_1
030205